Motion to pass

Sri B. M. PATIL (Minister of State for Municipal Administration).—Sir, I beg to move :

" That the City of Bangalore Municipal Corporation (Second Amendment) Bill, 1969 be passed."

Mr. DEPUTY SPEAKER.—The question is :

" That the City of Bangalore Municipal Corporation (Second Amendment) Bill, 1969 be passed."

The motion was adopted.

Mysore Legislature Salaries (Amendment) Bill, 1969

Motion to consider

Mr. DEPUTY SPEAKER.—Next, the hon. Minister for Parliamentary Affairs to move the Mysore Legislature Salaries (Amendment) Bill, 1969.

Sri H. N. NANJE GOWDA.—I rise on a point of order, Sir. As per the list of business the Hon. Minister for Parliamentary Affairs was expected to move this Bill after the Inams Aboltion Bill was passed by this House. But at that time the Hon. Minister was not present. In this connection, I would like to mention, that the other day the hon. Member Sri H. B. Jwalaniah was to have moved a Bill but he was not present in the House at that time and the Bill was not moved. I would like to know whether the privilege that is now being given to the Hon. Minister would also be extended to the hon. member Sri H. B. Jwalaniah ? If the hon. member is not permitted to move his Bill on some other day, I feel that the Hon. Minister also should not be permitted to move the Bill now.

ಶ್ರೀ ಎಚ್. ಬಿ. ಜ್ವಾಲನಯ್ಯ.—ಸ್ವಾಮಿ, ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ಅವರ ಒಂದು ಬಿಲ್ಲನ್ನು ಮೂವ್ ಮಾಡುವ ಸಂದರ್ಭದಲ್ಲಿ ಅವರು ಈ ಸಭೆಯಲ್ಲಿ ಇರಲಿಲ್ಲ. ತಾವು ಅವರಿಗೆ ಮತ್ತೆ ಮೂವ್ ಮಾಡುವುದಕ್ಕೆ ಅವಕಾಶ ಕೊಡುತ್ತಿದ್ದೀರಿ. ನಾನು ಸೇರ್ಸ್‌ಜ್ಯಾಕ್ಸ್ ಮೇಲೆ ಒಂದು ಬಿಲ್‌ತಂದಿದ್ದೆ. ಹೋದ ಶುಕ್ರವಾರ ಈ ಸಭೆಯಲ್ಲಿ ನಾನು ಇದ್ದಿಲ್ಲ ಎಂದು ಅದರ ಬಗ್ಗೆ ಏನು ಮಾಡಿದ್ದಿರೋ ಗೊತ್ತಿಲ್ಲ. ನನ್ನ ಒಂದು ಬಿಲ್ಲಿಗೆ ಮೂವ್ ಮಾಡುವುದಕ್ಕೆ ಅವಕಾಶ ಕೊಡುವುದಾದರೆ ಮಾನ್ಯ ಮಂತ್ರಿಗಳಿಗೂ ಕೂಡ ಮೂವ್ ಮಾಡುವುದಕ್ಕೆ ನನ್ನ ಆಕ್ಷೇಪಣೆ ಇಲ್ಲ. ಅವರಿಗೆ ಯಾವ ರೀತಿ ಅವಕಾಶ ಕೊಡುತ್ತೀರೋ ಅದೇ ರೀತಿ ನನಗೂ ಕೊಡಿ.

ಉಪಾಧ್ಯಕ್ಷರು.—ಮಂತ್ರಿಗಳು ಮೇಲಿನ ಮನೆಯಲ್ಲಿ ಎಂಗೇಜ್ ಆಗಿದ್ದರು.

ಶ್ರೀ ಹೆಚ್. ಬಿ. ಜ್ವಾಲನಯ್ಯ.—ಅದೇರೀತಿ ಯಾವುದೋ ಮೀಟಿಂಗ್‌ನಲ್ಲಿ ನಾನೂ ಎಂಗೇಜ್ ಆಗಿದ್ದೆ.

ಉಪಾಧ್ಯಕ್ಷರು.—ಆಗಲೂ ಇದೇ ರೀತಿ ಹೇಳಿದ್ದೇನೆ. ಅದೇ ದಿವಸ ಶ್ರೀಮಾನ್ ಕೆ. ಹೆಚ್. ಪಾಟೀಲರು ಆಮೇಲೆ ಒಂದು ಪಾಯಿಂಟ್ ರೈಸ್ ಮಾಡಿದರು. ಅವರಿಗೆ ಬರೆದು ಕಳುಹಿಸಿ, ತೀರ್ಮಾನ ಮಾಡುತ್ತೇನೆ ಎಂದು ಹೇಳಿದೆ. ಅದೇ ರೀತಿ ನೀವೂ ಬರೆದು ಕಳುಹಿಸಿಕೊಟ್ಟರೆ ತೀರ್ಮಾನ ಮಾಡುತ್ತೇನೆ.

Sri K. PUTTASWAMY.—Sir, I request you to give your consent under rule 322 for suspending the operation of rule 107 of the rules of procedure.

Mr. DEPUTY SPEAKER.—Consent is given.

†Sri K. PUTTASWAMY.—Now that the Hon. Deputy Speaker has given his kind permission to move for suspension of rule 107. I would like to say a few words about the necessity for suspension of rule 107. The bill that I intend moving—if the House is pleased to give premission—relates to the Travelling allownces and Daily allowances of the Presiding Officers of this House and the Upper House. Sir, the House is already aware that the Hon. Speaker very rccently went abroad and the hon. Chairman of the Upper House is go'ng abroad as a delegate to the Commonwealth Parliamentary Conference. In regard to the Travelling and Daily allowances of the Presiding Officers of the two Houses and the Ministers when they go abroad, there is a difference in rates at present. By this amendment the Government is seeking to bring the Travelling and Daily allowances of the Presiding Officers on par with those of the Ministers.

The urgency for suspending the operation of Rule 107 is that the Hon. Chairman of the Upper House is proceeding abroad on 29th of this month and before that if the House consents it is the intention of the Government to see that the Travelling allowances and Daily allowances are made available to the Hon. Chairman at the new rates. Hence, I request the House to kindly agree to the suspension of the operation of Rule 107.

† Sri M. NAGAPPA.—Sir, I oppose this motion for two reasons. Firstly, the motion is not before the House in writing as required by rules 146, 147 and 148 of the Rules of Procedure. If any motion is to be moved on the floor of this House, the mandatory provision is that the motion should be in writing before the House. There is no such motion placed by the Hon. Minister before the House and the Hon. Chair to consider it and hence it cannot be considered.

Secondly, Sir, the intention of the Bill is to give retrospective effect in the sense that it is to be operated from the first day of April, 1969. There is no hurry for passing this Bill and nothing would happen even if it is passed after three days, after a full consideration by the members. The members have to study the Bill and know the pros and cons of the Bill. Just now there was another Bill for which also the Hon. Chair wanted to suspend the rules. If all the Bills are going to be moved in this manner in one day itself, then I think the suspension of rules would become the order of the day. I therefore submit that there is no hurry for passing this Bill. Let the Hon. Chairman go abroad and I also wish for the success of his tour. But let us consider the pros and cons of the Bill in detail, since many constitutional matters are involved in this Bill.

I have given notice of a motion in writing under Rule 312. Before this Bill is taken up for consideration, I may be permitted to raise an

objection under Rule 312. Therefore, the permission to move the Bill may not be given because there is no motion before the House in writing.

ಶ್ರೀ ಎಚ್. ಎನ್. ನಂಜೇಗೌಡ.– ಪಾರ್ಲಿಮೆಂಟರಿ ವ್ಯವಹಾರ ಖಾತೆಯ ಸಚಿವರ ಸೂಚನೆಯನ್ನು ನಾನು ವಿರೋಧಮಾಡುತ್ತೇನೆ. ರೂಲ್ 107ರಲ್ಲಿರುವ ಅಪಧಿಯನ್ನು ರದ್ದುಮಾಡಬೇಕು ಎಂದು ಹೇಳಿದ್ದಾರೆ. ಇಷ್ಟೇ ಆಗಿದ್ದರೆ ಅರ್ಜಿನ್ನು ಅರ್ಥ ಮಾಡಿಕೊಂಡು ಸಭೆ ಒಪ್ಪಬಹುದಾಗಿತ್ತು. ಮಾನ್ಯ ಮಂತ್ರಿಗಳ ಮನಸ್ಸಿನಲ್ಲಿ ಏನು ವಿಷಯ ಕೆಲಸ ಮಾಡುತ್ತಿದೆ ಎನ್ನುವುದು ನನಗೆ ಅರ್ಥವಾಗುತ್ತಿಲ್ಲ. ಈ ಮಸೂದೆಯನ್ನು ಪರಿಶೀಲನೆಗೆ ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ಮೂವ್ ಮಾಡತಕ್ಕ ಸೂಚನೆಯನ್ನು ತರುವುದಕ್ಕೆ ರೂಲ್ ರದ್ದು ಮಾಡಿ ಅವಕಾಶ ಕೊಡಿ ಎಂದು ಕೇಳುತ್ತಿದ್ದಾರೆ. ಪರೋಕ್ಷವಾಗಿ ಚರ್ಚೆ ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೆ ಸೂಚನೆಯನ್ನು ಮಂಡಿಸಿಲ್ಲ ಎನ್ನುವುದನ್ನು ಒಪ್ಪಿಕೊಂಡ ಹಾಗೆ ಆಯಿತು. Th s unconstitutional Bill may not be permitted to be moved for consideration. I can understand the necessity to amend the Bill. But the Bill is a money Bill which they have admitted.

Sri K. PUTTASWAMY.—When the House gives permission to move the Suspension motion then the hon. Member can raise that objection. I have moved it with the consent of the Presiding Officer I have also explained the necessity for suspension and now since the hon. members have opposed, the opinion of the House has to be ascertained.

Mr. SPEAKER.—I wish to put the question before the House.

Sri M. NAGAPPA.—Unless a motion is there in writing as per Rules 146 and 147, can it be taken for consideration ?

Sri K. PUTTASWAMY.—Rule 146 does not relate to Bills ; it relates to matters of public interest.

Sri K. H. PATIL.—When there is no motion why should we proceed in this direction ? Let us have a regulated procedure.

Mr. SPEAKER.—Reference has been made to Rules 146 and 147. Under Rule 147 a notice is necessary. The Rule 146 says that no discussion shall take place except on a motion made with the consent of the Speaker. The discussions should be on a matter of general public interest. Now the suspension of Rules is covered by Rule 322 which reads thus :

> " Any member may, with the consent of the Speaker, move that any rule may be suspended in its application to a particular motion before the Assembly and if the motion is carried the rule in question shall be suspended for the time being."

I am inclined to think that rule 322 is independent of the provision o Rule 146.

Sri M. NAGAPPA.—Please refer to Chapter XXIV. It is about notices.

Mr. SPEAKER.—The practice is that whenever it is sought to transact a particula r business, if the rules come in the way, such rules may be suspended if the entire House agrees. I hold that rule 322 is independent of rules 146 and 147 and also the chapter referred to by Sri Nagappa. Therefore, I hold that the motion is in order.

Sri K. H. PATIL.—It may be clarified how it could be done. I am not questioning the authority oft he Hon'ble Speaker, why it should not be revised ? I want clarification in this matter.

Mr. SPEAKER.—So far as Rule 146 is concerned, a discussion can take place only on a motion made with the consent of the Speaker. Rule 147 says that a notice of a motion shall be given in writing. The hon. Member may please see rule 322 which does not say anything about what is provided in these rules, it is independent. There is no such provision under 147 which could control Rule 322. The rule 147 provides that a notice of a motion should be given in writing. This I think is enough.

5-30 P.M.

Sri K. PUTTASWAMY.—The particular motion before the House is the introduction of a motion for taking into consideration a Bill as passed by the Legislative Council. That is the particular motion. You may kindly read the rule which says :

> "Any member may with the consent of the Speaker move that any rule may be suspended in its application to the particular motion."

The particular motion is to take the Bill into consideration and the rule applicable in respect of that motion is rule 107. I have come with a request that the operation of rule 107 may be suspended.

Sri H. N. NANJE GOWDA.—My objection is that it is not proper to suspend a rule for taking into consideration such a motion; it is unconstitutional. I want to ask the Chair, by suspending the rule, whether we are not giving consent for moving an unconstitutional Bill. I am not against the Speaker or the Chairman. But in our anxiety to help the Speaker or Chairman, are we to permit the introduction of an unconstitutional provision ? The Constitution definitely says that a Money Bill shall not be introduced in the Legislative Council. Having admitted that this is a Money Bill, are we right in permitting the suspension of the rule to facilitate the moving of a Bill which is not constitutional ?

Mr. SPEAKER.—I think the problem is very simple. The Hon. Minister for Parliamentary Affairs seeks the suspension of rule 107. Rule 107 reads :

> " 107 : On the day on which such motion for consideration is set down in the list of business, which shall, unless the Speaker otherwise directs, be not less than three days from the receipt of the notice, the member giving notice may move that the Bill be taken into consideration."

If this rule is not suspended, the Parliamentary Affairs Minister will not be able to move the Bill for the consideration of the House now. In order to see that this particular provision of three days notice does not come in the way, he wants suspension of the Rule.

The other question is, whether the Bill that is sought to be introduced is constitutional or unconstitutional or legal or otherwise. I think it is altogether a different matter. If the Hon. Minister seeks to move for consideration a Bill which in the opinion of hon. Members is not in consonance with the provisions of the Constitution, it is perfectly open to raise the point when the Bill is taken up for consideration. But that argument does not become pertinent so far as suspension of the rule 107 is concerned. It just removes the difficulty in the way of Hon. Minister and he can move the Bill for consideration if the rule is suspended by the House.

MR. SPEAKER.—Now I put it to the House. The motion is:

"That rule 107 be suspended for the transaction of business in respect of Mysore Legislature Salaries (Amendment) Bill, 1969."

The motion was adopted.

Rule 107 was suspended

SRI M. NAGAPPA.—I rise to a point of order, Sir.

MR. SPEAKER.—The hon. Member's point of order can arise only when the Hon. Minister makes his motion and before the Chair proposes the motion to the House.

SRI K. PUTTASWAMY.—Sir, I move:

"That the Mysore Legislature Salaries (Amendment) Bill, 1969 as passed by the Legislative Council be taken into consideration."

SRI M. NAGAPPA.—Sir, I rise to a point of order. The point of order is this. The Bill that is being moved for consideration is a Money Bill as per the provisions of the Bill. Therefore, such a Bill cannot be introduced before the Council. In fact, it has to be introduced before the Legislative Assembly. For that I can quote two provisions of the Constitution. One is article 198 (1) which says:

"A money Bill shall not be introduced in the Legislative Council."

And the second provision is, article 207 (1) which reads thus:

"A Bill or amendment making provision for any of the matters specified in clauses (a) to (f) of article 199 shall not be introduced or moved except on the recommendation of the Governor and a Bill making such provision shall not be introduced in the Legislative Council."

Therefore, now we have to see whether this is a Money Bill or not. If it is a Money Bill, who is the proper authority to decide that it is a Money Bill. After discussing these two points, I will submit to the

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House that this being a Money Bill, it ought not to have been introduced in the Council first and the entire proceedings that have taken place on the floor of the Council are void and against the provisions of the Constitution. Therefore, such a recommendation on the Bill cannot be taken into consideration according to the provisions of our Rules of Procedure laid down in Section III of Chapter XI.

Then again, if we read the Statement of Objects and Reasons of the Bill, it will be seen that the very purpose of the Bill is to increase the travelling and dailly allowances of the Presiding Officers going abroad. It seeks to amend section 8 of the original Act. I am not bothered about the allowances they are entitled to. I am confining myself only to the legality of it. When we enact a measure, everything should be in accordance with law and the provisions of the Constitution. We are law-makers and we must, therefore, follow legal provisions scrupulously. Then alone we can ask the people to be law-abiding. When we legislators deviate from law, what will the courts and people think of us? In fact, it is the Speaker who has to decide whether it is a Money Bill or only an ordinary bill.

Now let me read Art. 199(3) of the Constitution to elucidate my point:

> "(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final."

So, it is not the Government which could decide that a particular Bill is a Money Bill or an ordinary bill. That decision is left to the Speaker. The very procedure of introducing this Bill in the Legislative Council first, and its publication by the Chairman of the Legislative Council without placing it before the Speaker, is wrong. I condemn that procedure.

Now, I will convince the Speaker that this is a Money Bill as laid down under Art. 199(1) which reads as follows:

> "For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:—
>
> * * * *
>
> (c) the custody of the consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund;
>
> (d) the appropriation of moneys but of the Consolidated Fund of the State;

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure ; ''

The important words are '' withdrawal of moneys from any such Fund '' and ''or the increasing of the amount of any such expenditure.'' These words may be marked. It may be argued that it is not declaration of any expenditure and it is not a charge on the Consolidated Fund. I shall show that it is a charge : Art. 186 says that it is charge on the Consolidated Fund of the State. Art. 186 reads :

'' There shall be paid to the Speaker and Deputy Speaker of of the Legislative Assembly, and to the Chairman and the Deputy Chairman of the Legislative Council, such salaries and allowances as may be respectively fixed by the Legislature of the State by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule. ''

Mr. SPEAKER.—Does it create a charge ? Please see Art. 202.

Sri M. NAGAPPA.—I am coming to Art. 202 also. This is done so that the Speaker and the Deputy Speaker may work unfettered. Let us take the cases of the High Court Judges, and of the Governor. These are posts which have been created by the Constitution. A charge has been allowed by the mandatory provisions of the Constitution on the Consolidated Fund for their salaries and allowances. Their salaries and allowances should have preference over any expenditure of the State. Therefore, charge means the first amount that is to be saved for the purpose.

Mr. SPEAKER.—It is not that. There is difference between charge and votable items.

Sri M. NAGAPPA.—Under Art. 202, the salaries and allowances of the High Court Judges, the Speaker and Deputy Speaker, the Chairman and Deputy Chairman of the Legislative Council should be charged on the Consolidated Fund of the State. It is in the ordinary sense, the first charge on the Consolidated Fund of the State. Let me read Art. 202 (1) :

'' The Governor shall in respect of every financial year cause to be laid before the House or Houses of the Legislature of the State a statement of the estimated receipts and expenditure of the State for that year , ...

(*a*) the sums required to meet expenditure described by this Constitution as expenditure charged upon the Consolidated Fund of the State ; ''

Art. 202 (a) is very important. The provision under Art. 186 is mandatory. It is a charge created on the consolidated fund of the

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State. The salary of the Speaker, the Deputy Speaker, the Chairman and the Deputy Chairman, High Court Judges and the Governor, is a charge on the consolidated fund of the State as per the provisions of the Constitution. Therefore, I say that this is declaration made as per Art. 202 (2) (a) of the Constitution. Therefore, it comes under Art. 199 (1) (e) of the Constitution and if any amount is to be increased in the charged amount, *i. e* , in the salary or anything else, that comes under sub clause (1) (e) of article 199, I sumit that this is a money Bill and it cannot be introduced in the Council because of art. 189. Therefore, I submit that the Chair may not give permission to the Government to choose its own forum and get the Bill passed against the provision of the Constitution. The Chair may be pleased to direct the Government to move this Bill afresh before this House with the permission of the Governor.

With these words, I request the Chair to consider my point.

MR. SPEAKER.—It is agreed that the charge regarding salary and allowances of the Presiding Officers on the Consolidated Fund is created by Art. 202. But Allowances and emoluments of the Presiding Officers are fixed by law made under Art. 186. So, this legislation is under Art. 186. This Article by itself does not create any charge on the consolidated fund of the State. The principal Act which is sought to be amended is a law passed under Art. 186 and there is nothing in the law which says that allowances and emoluments of the Presiding Officers are charged on the consolidated fund of the State. The hon. Member may please examine this point. This point is clear. Let him examine Art. 199 which speaks of Money Bills. This Bill, by itself is not creating any charge or increase in charge or is not authorising any withdrawal. This Bill *prima facie* does not seek to do either. This Bill by itself does not provide for the withdrawal of the amounts from the consolidated fund. Hon. Member may consider these points. Then, the hon. Member may ask, what about the position of Bills on imposition of tax, etc. Art. 283 provides for the custody of the consolidated fund. Therefore, it refers to law under Art. 283 and not under Art. 186. Therefore, unless the Bill by itself creates a charge, the provision of Art. 199 is not attracted and it is not a Money Bill.

SRI M. NAGAPPA.—After reading Art. 283, I think my argument will be more substantiated. The first thing is, right of salary is created by Art. 186 of the Constitution. Under that two provisions have been made, one is discertion is given to the legislature to pass a law regulating the salary and allowances of the Presiding Officers. Similarly Art. 202 (2) says that there will be a charge. The salary of the Presiding Officer will be a charge on the Consolidated Fund. Tomorrow the legislature might say that the Presiding Officers should work without any salary and they may not pass a Bill. Therefore, with due caution, the framers of the Constitution have said that till such time the law is passed,

they should be given such salaries and allowances as are specified in the second schedule. After laws are made, they are amended. Even if law is not made under Art. 186, the definite amount shown in the schedule has to be paid and that will be a charge on the consolidated fund of the State. Therefore, while placing the Budget on the floor of the House, it is the bounden duty of the Government under Art. 202 (2) to make provision for such of the items as laid down under Art. 202 (2). So, that is the first charge on the consolidated fund of the State. They have created a first charge on the consolidated fund of the State regarding the salaries of the speaker, the Deputy Speaker, Chairman and Deputy Chairman. Article 283 says that if any withdrawal of money is made by making a law under article 186 or 202, then it must be treated as a Money Bill.

6-00 P.M.

† **Sri H. M. CHANNABASAPPA.**—Sir, I am sorry to note that so much of discussion is going on, on a matter which is apparent on the face of it. When we make a provision in a law for the payment of allowances to the Speaker and Chairman, it goes without saying that the money must come from the Consolidated Fund. But for the fact that it is a Money Bill there is no necessity whatsoever for the Government to give a financial memorandum. Rules after rules and precedents after precedents are quoted to show that it is a Money Bill. When the Chair was explaining the implications of this Bill, I was really surprised at the construction that he was putting on it. It is for the Speaker to rule whether it is a Money Bill or not, but in our anxiety to give a ruling on the basis of what strikes us uppermost, we would be treading a very dangerous ground. I quite understand the anxiety of the Hon. Minister for Parliamentary Affairs. The Chairman has to leave India shortly and he is to be given money to facilitate his journey. Therefore, the Hon. Minister for Parliamentary Affairs is feeling rather fidgety about it. If this Bill is not passed or is delayed, the Hon. Minister for Parliamentary Affairs can advance the money from his pocket and later on get it re-imbursed. It passes one's comprehension how a learned Minister like Sri Puttaswamy can move this Bill in the Council when there are specific provisions in the Constitution to the contrary ? Knowing full well that this is a Money Bill and involves expenditure from the State's Exchequer, how did he move it first in the Council ? He has legal luminaries to advise him and I am sure that the legal advice tendered to the Government must be that it is a Money Bill and that it shall not be passed first in the Council. Although the Ministers May err, I amesure the legal advisers will not err. They will place before the Government whatever they feel to be correct, but it is our friends who in their anxiety to push through matters to suit their ends place it before the Council, get it passed and then bring it here contrary to the provisions of the Constitution. I fail to understand how the Chairman allowed this Bill to be moved in the Council.

Mr. SPEAKER.—It is not correct to comment upon the conduct of the Chairman. The question whether this Bill should have been initiated here or in the Council depends upon whether it is a Money Bill or not. I want the hon. Member to tell me how it is a Money Bill. The contention of the Government is that it is not a Money Bill.

Sri H. M. CHANNABASAPPA —If this is not a Money Bill, I fail to understand what else could be a Money Bill ? If, however, this House passes this Bill on the assumption that this is not a Money Bill, I am afraid we will be running a great danger of having passed a Bill contrary to the provisions of the Constitution. Therefore with all the vehemence at my command and with all the persuasive capacity I have over the Minister for Parliamentary Affairs, I would appeal to him not to run the danger of pushing through this Bill contary to the provisions of the Constitution. I would appeal to the Chair to think ten times before he gives the ruling because once the ruling is given it will be quoted elsewhere and I do not want our Speaker to be quoted as having done a wrong thing.

† Sri K. H. RANGANATH (Mudigere).—Sir, I would invite the attention of the Chair and of the House to article 202 (3) (*b*) which says :

> " the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly and, in the case of a State having a Legislative Council, also of the Chairman and the Deputy Chairman of the Legislative Council.'

Article 186 gives us power to pass a law fixing the salaries of the Speaker, Deputy Speaker, Chairman and Deputy Chairman and it is under this article that we have fixed their salaries. I may also draw the attention of the Chair to article 199 (e). As I said, this is a charged expenditure under article 202 and salaries and allowances are fixed under article 186.

Further article 199(e) provides for declaring any expenditure to be charged expenditure and article 202 (3) declares the salaries and allowances of the Speaker and the Deputy Speaker and the Chairman and the Deputy Chairman as charged expenditure. I hope you agree with me. Article 199(e) provides for declaring any expenditure to be expenditure charged on the Consolidated Fund of the State. Similarly, any increase in the amount of such expenditure is also charged. The prseent Bill that is sought to be introduced in this House is in respect of increase of the expenditure towards salaries and allowances of the Speaker and the Deputy Speaker and the Chairman and the Deputy Chairman. Therefore my submission is that this comes under article 199(e) where there is increase in the expenditure and that expenditure is charged expenditure as defined in article 202(3). This also comes under article 186 which provides for the salaries of the Speaker and the Deputy Speaker and the Chairman and the Deputy Chairman. If article 186 was not there we would not have passed the law fixing the salary.

It is not that the present law is independent of the other articles and so there is no ground to say that this Bill is not a Money Bill. Prima facie this is a Money Bill and by getting this Bill passed first in the other House the Government have given room for the other House to interfere with the jurisdiction of our right. This Bill should have originated in our House and to that extent our objection is there and not to the contents of the Bill. After all, this House has got powers to increase the salaries and allowances of the Speaker and the Deputy Speaker and the Chairman and the Deputy Chairman. So, my submission is that let not the other House interfere with the jurisdiction of this House and let there not be any erosion by the other House on our rights because every Money Bill will have to originate in this House as article 188 says that no Money Bill may originate in the other House. Therefore the Hon. Minister for Parliamentary Affairs can withdraw this Bill now and he may introduce a Bill tomorrow itself and get it passed if he is in a hurry and also submit the Bill as passed by this House to the other House for its concurrence. Let us exercise our jurisdiction and let us not allow the other House to exercise a jurisdiction which it does not have.

With these words I submit that *prima facie* this is a Money Bill and it should not be allowed to be taken up for consideration since it has originated in the other House and it has come to us after the other House has passed it. This Bill should have originated in this House.

† **Sri D. B. KALMANKAR.**—I would invite your attention to rule 67 :

> "If the Bill is a Bill which under the Constitution cannot be introduced without the previous sanction or recommendation of the Governor, the member shall annex to the notice such sanction or recommendation conveyed through a Minister, and the notice shall not be valid until this requirement is complied with."

Mr. SPEAKER.—I might inform the House that there is sanction of the Governor for its introduction under article 207(3) of the Constitution.

Sri D. B. KALMANKAR.—That being so, our argument is stronger because this comes under article 207 and there it is said that this must originate in the Assembly.

Mr. SPEAKER.—I have carefully heard all hon. members. If the hon. Member has any additional grounds, he may state them.

Sri D. B. KALMANKAR.—Article 207 takes away the jurisdiction of the Council. This article is to be read along with articles 186, and 198. Further article 199 difines a Money Bill. All these articles are to be read together. Article 283(2) says :

> "The custody of the Consolidated Fund of a State and the Contingency Fund of a State, the payment of moneys into such

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> Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of the State, their payment into the public account of the State and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of the State,....."

My submission is that this expenditure is charged on the Consolidated Fund of the State.

MR. SPEAKER.—Is it the hon. Member's case that this legislation falls under article 283 ?

SRI D. B. KALMANKAR.—Even if it comes under article 283 my submission is that it is a Money Bill.

MR. SPEAKER.—Does it come under Article 283 or 186 ?

SRI D. B. KALMANKAR.—My submission is that both articles 283 and 186 are to be read together. The original Act passed here is under article 186, but now by this amendment we are going to give something more. My submission is that it is a Money Bill which should have originated in this House.

SRI H. N. NANJE GOWDA.—The salaries and allowances of the Speaker and the Deputy Speaker and the Chairman and the Deputy Chairman are fixed under article 186.

MR. SPEAKER.—It is not necessary to go over the entire ground again.

SRI H. N. NANJE GOWDA.—It is necessary because members must know it.

MR. SPEAKER.—Not necessary. It is only for the Speaker to understand and not for others.

SRI H. N. NANJE GOWDA.—No, Sir, I must convince the Hon. Minister so that if he is convinced by my arguments he may even withdraw this Bill.

SRI K. H. PATIL.—The House also has to understand.

Sir, it is a vital point touching my right also. I am not allowed to interfere when a Ruling is given. I don't question the profound, knowledge of the Chair. I may be permitted to have my say before the Ruling is given.

SRI H. N. NANJE GOWDA.—I was referring to Article 97, which refers to the salaries and allowances of the Chairman and the Deputy Chairman of the Council of states; and to the Speaker and the Deputy Speaker of the House of the people.

Mr. SPEAKER.—They are common things.

Sri H. N. NANJE GOWDA.—I would like to draw your kind attention to Article 112 (3) (b) wherein it is also stated that the salaries and allowances are charged on the Consolidated Fund of India.

Mr. SPEAKER.—It is not doubted ; it is agreed.

Sri H. N. NANJE GOWDA.—The salaries and allowances are charged on the Consolidated Fund. Therefore, it is definitely a Money Bill, and once it is a Money Bill, Article 198 immediately comes into play. A Money Bill cannot be introduced in the Council first. We are entitled to discuss it first. Since it is already passed by the Legislative Council, it amounts to a Breach of Privilege of this House by the other House. This is my constitutional point and I request the Chair to consider it.

Sri K. PUTTASWAMY.—Sir, I am very greatful to the hon. members for throwing lot of light on several articles, which govern the point at issue. I am also thankful to you, Sir, for rendering my task very easy by trying to enlighten the hon. members on several articles of the Constitution. I am particularly happy that we are not now treading a new ground. In this House, on several occasions, we have listened to very illuminating discussion on the point that is raised by the hon. Member Sri Nagappa. You remember, Sir, that in 1957, when the salaries Bill relating to the Ministers and the hon. members of this House came up for discussion, several members raised the very same point. I remember very well the arguments advanced by the hon. member Sri H. Siddaveerappa. I will come to that point last. Now, we have to examine whether the present Bill is hit by Article 199 ; whether it is a Money Bill or whether it is a Bill coming under Article 207. A certain distinction has been made between the Money Bill and the Financial Bill. Article 199 governs the Money Bill and Article 207 makes provision for Financial Bill. If I am able to convince you that this Bill is not covered by Article 199, then I can proceed to request the House to take the Bill into consideration. If I am not able to convince that it is not a Money Bill but it is a Financial Bill, then, I think, I will not be able to request the House to take the Bill into consideration.

Sri H. N. NANJE GOWDA.—Sir, it comes under Article 207.

Sri K. PUTTASWAMY.—If there is anything new that the hon. members of this House would like to bring to your notice, I would not stand in their way ; I would immediataly yield, because it is a very important point. But, I don't take it that the hon. members are trying to obstruct the passage of the Bill. They are interested in setting up good principles, they are interested in seeing that this House is not a party to any unconstitutional Act. If I am convinced that this Bill is hit by Article 199, I shall have no hesitation to withdraw my motion. I am also eager, as eager as any of the hon. members, to see that what we do is within the Constitution, is not *ultra vires*, and *is intra vires* of

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the Constitution. I would like to submit that Article 207 governs the Financial Bill. If I am able to convince that this Bill comes under Article 207, then, I am sure, I will have your permission to proceed with the Bill.

My learned friend Sri H. M. Channabasappa made two significant statements. He said, law is codified commonsense. This is a very well accepted principle. But, very often, we will not have enough commonsense to see the codified commonsense. He also said that the House should not give even the benefit of doubt to me I do not want him to give me the benefit of doubt.

6-30 P.M.

I am not an accused here to request you to give me a benefit of doubt I am sure, Sir, after you listen to my arguments you would be convinced that this is a Bill not coming under article 209 but a bill coming under article 207 of the Constitution. I would like to make a brief reference to article 110 here. The hon. member referred to clauses (*c*) and (*e*) of Article 100 of the Constitution. Sir, the said clauses read as follows :

> "110. (1) for the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely :—
>
> (*c*) the custody of the Consolidated Fund or the Contingency Fund of India, the payment of moneys into or the withdrawal of moneys from any such Fund ;
>
> (*e*) the declaring of any expenditure to be expenditure charged on the consolidated Fund of India or the increasing of the amount of any such expenditure."

The hon. Member Sri Channabasappa asked when we are going to increase Travelling allowances and Daily allowances of the Hon. Chairman and the Hon. Speaker, whether the money would not be going out of the consolidated fund ? He also stated that it is such an elementary principle and how I was not able to understand it. Sir, it is not that all the bills, the passing of which would result in the outgo of funds from the consolidated funds, would become Money Bills. In the beginning itself I have stated the provisions of article 110 (1) which states that :

> " For the purposes of this Chapter a bill shall be deemed to be a Money bill only if it contains provisions dealing with all or any of the following matters....."

So, Sir, I humbly submit that the hon. Member who spoke on the point of order has failed to distinguish between a Money bill and a Financial Bill. Clause (e) of article 110 clearly states :

> " 110. (*e*) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of India or the increasing of the amount of any such expenditure."

Sir, I am not seeking to bring in a law to declare that the salaries and the emoluments that are payable to the Presiding Officers of the Legislature under this Bill should be a charged item. If I had brought a law then the arguments advanced by the hon. Member Sri Ranganath would have been perfectly correct.

Sir, as was pointed out by you earlier, this bill does not seek to make the salaries and emoluments of the Presiding Officers of Legislature a charge on the consolidated funds. That charge is independently created by the Constitution itself. I feel, Sir, that the hon. members are under a mistaken impression that the Mysore Legislature Salaries Act has created a charge on the consolidated funds of the state in respect of the amount payable to the Presiding Officers. Sir, it is not so. If it were so, it would have dealt with the latter portion of the article 199(*e*) of the Constitution No doubt this bill is going to increase the expenditure. I am not seeking to see that the increased expenditure to be a charge on the consolidated fund by a law. The charge is independently created by the constitution itself. In my humble opinion article 199(1) (*e*) is not applicable in this case. Also article 199 (1) (*c*) is not applicable in this case because it is not that every out go of funds would make it a Money Bill; In that case it becomes a Financial Bill. If my contention is accepted, it is a Financial Bill and it is for the Hon. Chair to say whether it satisfies the provisions laid down under article 207 or not.

Now I come to article 207 (1) which makes it very clear that :

> " 207 (1) A Bill or amendment making provision for any of the matters specified in sub-clauses (*a*) to (*f*) of clause (1) of article 199 shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council. "

This relates to money Bills.

Then article 207 (3) reads as follows :—

> " A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of a State shall not be passed by a House of the Legislature of the State unless the Governor has recommended to that House the consideration of the Bill. "

Sir, the Upper House has got every right to consider Financial Bills. Introduction of Financial Bills for consideration by the Legislative Council is not at all unconstitutional and the only requirement is that it must be

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accompanied by the recommendation of the Governor for condsideration. I would like to submit that this requirement has been satisfied.

Sir, the other articles that were pressed for consideration are only consequential articles. Article 186 reads thus :—

> "186 There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly, and the Chairman and the Deputy Chairman of the Legislative Council, such salaries and allowances as may be respectively fixed by the Legislature of the State by law and, until provision in that behalf is so made, such salaries and allowances as are specified in the Second Schedule."

This is only a transitory provision and it enables this House to pass a law providing for the salaries and allowances payable to the Speaker, Deputy Speaker, Chairman and the Deputy Chairman.

Sir, the other Article that was pressed for your kind consideration was article 202. It relates to laying down the financial statement before the House. But this is only about the salaries and emoluments of the Hon'ble Speaker, Deputy Speaker, Chairman and Deputy Chairman. This expenditure should be treated as charged item. The charged item cannot be submitted to the vote of this House. Once the law fixes that it is a charged item, it is not to be voted by the House. Then Art. 283, which was pressed for consideration, also relates to the custody of the Consolidated Fund, Contingency Fund and the moneys credited to such Funds, etc. When this House took up for consideration the increase in the salaries and emoluments of the Ministers and the Presiding Officers and Members of this Legislative Assembly and Council, these points were raised and the then Hon. Speaker had given an exhaustive ruling holding that the Bill came under Article 207 and not under Article 109. Therefore, I submit that there is no force in the arguments of the hon. Members and I request the Chair to consider the arguments and give a ruling.

Sri K. H. PATIL.—This is a point which involves the salaries and allowances of the Hon. Speaker, the Hon. Deputy Speaker, the Hon. Chairman and the Hon. Deputy Chairman. Therefore I am afraid that an impartial ruling cannot be given by the Chair. Therefore I request the Chair to ask any one from the panel of Chairmen to preside.

Sri M. NAGAPPA.—I am of the opinion that the Hon. Speaker himself should decide this matter. The Constitution says that it must be decided by the Speaker himself. If the Hon. Deputy Speaker were to be here, I would have requested him to call for the Hon. Speaker.

Sri H. N. NANJE GOWDA.—It has been defined what a Money Bill is in the Constitution under Article 110. In Basu's commentary on Constitution, it is described in detail what is money Bill. You may kindly go through that commentary.

Mr. SPEAKER.—Hon. Member Sri Patil has raised a question that the Speaker should not preside and one from the panel of chairman should preside. I assure the Hon. Member that I will be taking impersonal interest in the matter though this Bill pertains to the salaries of the Speaker, the Deputy Speaker and the Chairman and the Deputy Chairman. I do my duty impartially and to the best of my ability. This Bill has been brought here to amend the rules in respect of tours outside India by the Chairman or the Speaker. They want to bring these rules on par with the rules that are applicable to the Ministers. Now it is for the House to decide. The occupant of this Chair does not lose anything if the Bill is passed after a month or two. Therefore no motive should be attached to the Chair. The question before me is whether it is a Money Bill or not.

Sri M. NAGAPPA.—A full debate may be held up some time later when I will be in a position to advance my arguments in a fitting manner. There are hardly 10 minutes left for the day. I can quote a number of rulings of the High Court if the Bill is postponed to some other date. Unfortunately I have not brought those quotations to-day.

Mr. SPEAKER.—The question before me is whether this Bill is a Money Bill or not. I have considered the provisions of Articles 199 and 207 and I have come to a reasonable conclusion on that defines what a money bill is. According to it some may be Money bills and some may not. Article 199. Reads thus:

> "For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters..."

The word 'only' is very important and it should be underlined. There may be certain Bills containing some provisions dealing with money and some not dealing with money. This Bill does not deal with money.

Sri H. N. NANJE GOWDA.—The emphasis laid on the word "only" in sub-clause (1) of sub-clause (d) is explained in this commentary.

Mr. SPEAKER.—I am inclined to agree with the commentary. If there is a Bill containing provisions dealing with money and if there are other provisions also in addition, then it is not a Bill dealing *only* with money and it cannot be deemed to be a Money-Bill.

If a Bill contains only provisions covered by sub-clauses (a) to (g), of Article 199 then it shall be deemed to be a Money Bill On the basis of the two provisions that have been brought to my notice by Sri Nagappa and other Hon. Members, it is said that this Bill is covered by clauses (c) and (d) by reasons of the fact that it provides for expenditure out of the Consolidated Fund of the State of Mysore. Clause (c) says:

> "The custody of the consolidated fund or contingency fund of the State, the payment of moneys into or the withdrawal of moneys from any such fund".....

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The word *withdrawal* is something different from *expenditure.* Article 283 (2) says that till such law is made, it shall be regulated by the rules made by the Governor of the State. Therefore, "withdrawal" is something different from "expenditure." That may be noted. We are considering only "expenditure." "Withdrawal" has got a wider sense in the Constitution. It is apart from expenditure. In some clauses the word used is "withdrawal" and in some clauses the word used is "expenditure." Therefore the term "withdrawal" is not used in the same sense as "expenditure." Therfore sub-clause (c) of article 199 (1) does not apply. Now we will consider whether sub-clause (e) of article 199 (1) applies. It refers to, declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State or the increasing of the amount of any such expenditure. Article 202 (3) provides that salaries and allowances of Presiding Officers are charged to the consolidated Fund. The charge is constitutionally created. Therefore, no Bill is necessary for the purpose of creating any such charge. Whether the salary is increased or decreased in any manner, the charge is already there. This particular, sub-clause (e) refers to the Expenditure charged on the Consolidated Fund of the State. If a Bill seeks to declare that a particular Expenditure is charged on the Consolidated Fund of the State, then certainly it comes within the mischief of sub-clause (e) and not otherwise. This Bill does not declare any increase in the allowance as a charge.

Now let us examine the provisions of article 207. Article 207 (1) deals with the provisions of article 199. Article 207 (3) says :

> "A Bill which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of the State shall not be passed by a House of Legislature of the State unless the Governor has recommended to that House the consideration of the Bill."

The purpose and object of clause (3) of Article 207 is different from clause (1). Clause (1) deals with cases covered by article 199 (1) which deals with Bills which seek to create a charge. After full consideration and deliberation I have come to the conclusion that this Bill cannot be deemed to be a Money Bill under article 199 (1). Therefore, there is no objection to the consideration of this Bill in the House today. The Governor of Mysore has recommended the consideration of the Bill under article 207 (3) of the Constitution. In this respect, I may refer here to the ruling given by my illustrious predecessor late Sri Vaikunta Baliga on a point of order raised by the Hon. Member Sri K. H. Ranganath. I do not want to exhaust the patience of Hon. Members by reading the entire ruling. I shall read only one sentence. He has opined that "a Bill of the type which is here, does not come under Art. 199." He has come to the conclusion that the Legislature Salaries (Amendment) Bill does not come within the purview of Art. 199 (1). I accept that view

and rule that the Mysore Legislature Salaries (Amendment) Bill, 1969, cannot be deemed to be a Money Bill. As such, it could be initiated in the Legislative Council. Now it is perfectly all right for this Hon. House to consider it.

I extend the time of the House by half-an-hour.

Motion moved.

"That The Mysore Legislature Salaries (Amendment) Bill, 1969 as passed by the Legislative Council, be taken into consideration"

Sri K. PUTTASWAMY.—Sir, while moving the Bill for consideration, I would like to be very brief. The Hon. Members are very well aware of the provisions relating to travelling and daily allowances of the Ministers as contained in the Mysore Ministers Salaries and Allowances Act, 1969. Somehow, it escaped the notice of this Hon. House that the T. A. and daily allowance of the Hon. Chairman of the Legislative Council and the Hon. Speaker when they go out of India should be brought on par with the rates paid to Ministers going abroad. Ministers are entitled to a daily allowance of Rs. 100 and in special cases Government may enhance it up to Rs. 150 per day. Unfortunately, the relevant provision relating to the Hon. Speaker and the Hon. Chairman remained at Rs. 50 and Rs. 75. So, the present amendment is to make provision to see that the allowances to the Hon. Speaker and the Hon. Chairman are made on par with those of the Ministers. And I am sure the Hon. Members are as zealous as any of us, to see that the Presiding Officers enjoy the salaries emoluments, allowances and other privileges of the Ministers, I am sure that they are going to agree to my motion.

Mr. SPEAKER.—The question is :

"That the Mysore Legislature Salaries (Amendment) Bill, 1969, be taken into consideration."

The motion was adopted.

Sri D. B. KALMANKAR.—I am not moving my amendment.

CLAUSES

Mr. SPEAKER. —The question is :

"That clause 2 do stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Mr. SPEAKER.—The question is:

"That clause 1, the long Title and the Enacting formula stand part of the Bill."

The motion was adopted.

Clause 1, the long Title and the Enacting formula were added to the Bill.

Motion to pass.

Sri K. PUTTASWAMY.—Sir, I move:

"That the Mysore Legislature Salaries (Amendment) Bill, 1969, as passed by the Legislative Council be passed."

Mr. SPEAKER.—The question is:

"That the Mysore Legislature Salaries (Amendment) Bill, 1969, as passed by the Legislative Council be passed."

The motion was adopted.

Mr. SPEAKER.—The House will now adjourn and re-assemble at 1 p.m. tomorrow.

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The House adjourned at five Minutes past Seven of the Clock, to meet again at One of the Clock on Thursday, the 28th August 1969.

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